MINUTES
FOR THE BOARD OF DIRECTORS
OF THE SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT
NOVEMBER 9, 2022
REGULAR MEETING AT 6:00 P.M.

Regular Board Meeting
A duly called Regular Meeting of the Board of Directors of the South Adams County Water and Sanitation District (the “District”) was held on November 9, 2022, at 6:00 p.m. in the District’s Aragon Boardroom at 6595 E. 70th Avenue, Commerce City, Colorado, in accordance with the applicable statutes of the State of Colorado. All Board members received the Agenda and meeting packet in advance of or at the meeting, and the non-confidential portions of those materials were incorporated by reference into the public portion of the meeting and these meeting minutes.

Board Members Present (thereby constituting a quorum):
Heidi McNeely, President
William Frew, Vice President
Vicki Ennis, Secretary
Becky Toczykowski, Treasurer
René Bullock, Director

SACWSD Staff/Legal Present:
Abel Moreno, District Manager
Kipp Scott, Water Systems Manager
Byron Jefferson, Administrative Services Manager
Gary Smith, Wastewater Systems Manager
Jim Mock, General Counsel
Dawn Fredette, District Clerk/Legal Assistant
Theresa Friess, Public Affairs Coordinator
Zachary Gilbert, Water O&M Supervisor

Consultants/Others Present:
Glenn Hamilton - Muller Engineering Company
Steve Hibbeler – Muller Engineering Company
Nick Montalbano, Catellus Development Corp. (virtual)
Jon Lohmer, Resident
Dave Fox, Resident

1 CALL TO ORDER
President McNeely called the meeting to order at 6:00 p.m. and then led everyone in the
Pledge of Allegiance.
DISCLOSURES OF CONFLICTS OF INTEREST

Mr. Mock noted that the Board had received, and staff had filed with the Secretary of State’s office more than 72 hours prior to the meeting certain disclosures of potential conflicts of interest statements for the Directors indicating their conflicts or potential conflicts as shown below.

Director Frew has submitted a standing potential conflict of interest letter stating that he is an owner of Sunshine Plumbing Heating and Air. The company provides various plumbing, heating, and air conditioning services throughout the Metro Denver Area, including within the boundaries of the District. Director Frew is also a Board member of the Commerce City Chamber of Commerce.

Director Ennis is an employee of Brighton School District 27J and from time to time the School District has business before the District.

Director Bullock is the Executive Director of the Chamber of Commerce of the City of Commerce City. The Chamber engages, educates, and advocates for the business community and the residents of Commerce City.

President McNeely asked if the Board members had any additional potential conflicts of interest to disclose. There were none.

AGENDA REVIEW

President McNeely asked if the Board would like to see any changes to the Agenda. No changes were made to the Agenda.

APPROVAL OF MINUTES

President McNeely asked the Board for any comments on the Minutes from the Regular Meeting held on October 12, 2022. There were no comments.

President McNeely then called for a MOTION to approve the Minutes from the Regular Meeting held on October 12, 2022. Director Ennis moved and Director Toczyłowski seconded. Director Bullock abstained because he did not attend the October meeting. The MOTION passed 4-0.

PUBLIC COMMENT

President McNeely called for public comments and stated that members of the public have three minutes to address the Board. There were no public comments at this time.

CONSENT AGENDA

President McNeely inquired whether any Board member would like to discuss any particular Consent Agenda item. No Board member expressed a desire to discuss or move an item from the Consent Agenda and President McNeely then read the following Consent Agenda items:

1. Direct staff to file a Statement of Opposition in Water Court Case No. 22CW3130
2. Approve the Final Pay Application to Vortex Services LLC in the amount of $121,485.81 and authorize the release of retainage in the amount of $72,612.44 for the 2022 Monaco Street Water System R&R Project
3. Approve Partial Pay Request #5 to Insituform Technologies, LLC in the amount of $532,295.17 for the 2022 Wastewater Collection System R&R Project
4. Approve Pay Application #3 to Farmer Enterprises, Inc. in the amount of $53,868.64 for the 85th and Quebec Water Line Looping Project
5. Approve Pay Application #3 to Vortex Services LLC in the amount of $758,411.55 for the 2022 Water System R&R Project
6. Approve Electronic Payments
7. Approve the Bill Paying Process

President McNeely called for a MOTION to approve the Consent Agenda items. Director Frew moved and Director Bullock seconded. The MOTION passed unanimously.

ACTION ITEMS

ACTION ITEM 1 – Catellus GID ERUs Variance Request for Turnberry Project
Mr. Moreno explained that Catellus owns ERUs in the Turnberry project and that Catellus has built out all the land subject to one of the GID Water Resource Agreements (known as the “BCX Water Resources Agreement”). However, there are 2.94 remaining ERU’s that Catellus already purchased but no longer needs. Mr. Moreno further discussed the request by Catellus to have those 2.94 ERUs moved to another part of the project that is still developing instead of having them revert to the District per the Water Resources Agreement. Mr. Moreno stated that staff has reviewed the request and the status of the GID ERU program, and that the transfer would not be problematic for several reasons referenced in the Board packet.

Mr. Montalbano briefly addressed the Board and talked about Catellus being almost done with the project. He stated that Catellus has done a lot of business with the District and they appreciate the District’s consideration on this matter.

President McNeely called for a MOTION to approve the Catellus variance request allowing the 2.94 “BCX” GID ERUs to be used on Turnberry land to which they were not originally assigned. Director Bullock moved and Director Ennis seconded. The MOTION passed unanimously.

ACTION ITEM 2 – Change Order #1 to Moltz Construction, Inc. in the amount of $796,800.00 for the Landmark and HCW pump upgrade project
Mr. Scott explained that this Change Order pertains to the purchase of pumps and associated electrical equipment. He noted that Moltz had contacted several pump and electrical suppliers and that staff evaluated the proposals received. Mr. Scott then discussed proposed costs and lead times. He stated that the pumps would be delivered in April 2023 and that this would be the first phase of the project. Mr. Scott further noted that Muller Engineering is finishing up the design and that staff will come back to the Board in January with a GMP. Discussion ensued.
Director Bullock inquired about liquidated damages. Mr. Scott and Mr. Moreno explained that liquidated damages are an attempt to quantify the District’s costs if the contractor does not meet the deadlines on the project. With the change order, the District is also agreeing to the contractor requiring lower liquidated damages from its supplier and the contractor might request lower liquidated damages from the District.

Mr. Scott then stated that staff is recommending approval of the Change Order.

President McNeely called for a **MOTION** to approve Change Order #1 to Moltz Construction, Inc. in the amount of $796,800.00 for the Landmark and HCW pump upgrade project. Director Toczyloski moved and Director Frew seconded. The **MOTION** passed unanimously.

**ACTION ITEM 3 – Public Hearing regarding a second Supplemental Budget for 2022 and a Resolution adopting the second Supplemental Budget for 2022**

Mr. Jefferson talked about previous discussions with the Board regarding the District receiving grant money for the treatment of emerging contaminants and possible TABOR concerns. He added though that the District’s enterprise status is not being affected by receipt of additional grant funds recently approved by the State. Mr. Jefferson suggested the Board open the Public Hearing to hear comments. He noted that Notice of the Public Hearing had been published as required by law.

President McNeely called for a **MOTION** to open a Public Hearing. Director Frew moved and Director Ennis seconded. The **MOTION** passed unanimously.

President McNeely called for public comments. There were none.

President McNeely called for a **MOTION** to close the Public Hearing. Director Ennis moved and Director Toczyloski seconded. The **MOTION** passed unanimously.

President McNeely then called for a **MOTION** to approve the second Supplemental Budget for 2022 and the corresponding Resolution. Director Ennis moved and Director Frew seconded. The **MOTION** passed unanimously.

**ACTION ITEM 4 - Public Hearing and a Resolution Certifying Delinquent Accounts to Adams County Treasurer for collection with property taxes**

Mr. Jefferson explained that the accounts to be certified are $150 or more and at least six months past due. He suggested the Board open the Public Hearing to hear comments. He also noted that Notice of the Public Hearing had been posted as required by law.

President McNeely called for a **MOTION** to open the Public Hearing. Director Frew moved and Director Ennis seconded. The **MOTION** passed unanimously.

President McNeely called for public comments. Mr. Lohmer addressed the Board and discussed concerns related to whether customers whose outstanding dues would be certified for payment with taxes might take a tax deduction for such payments. Mr. Mock stated that it’s up
to the individual taxpayer to determine the tax impacts of having their water bills paid through
the certification process.

President McNeely then called for a **MOTION** to close the Public Hearing. Director
Bullock moved and Director Toczyłowski seconded. The **MOTION** passed unanimously.

Mr. Jefferson stated that it is staff’s recommendation for the Board to approve the
certification of delinquent accounts to the County Treasurer.

President McNeely called for a **MOTION** to approve a Resolution Certifying Delinquent
Accounts to Adams County Treasurer for collection with property taxes. Director Ennis moved
and Director Frew seconded. The **MOTION** passed unanimously.

**ACTION ITEM 5** – Public Hearing to receive public comments regarding the proposed
2023 Budget

**ACTION ITEM 6** – Public Hearing to receive public comments regarding the proposed
2023 Rates and Fees increases

Mr. Jefferson recommended combining the two Public Hearings and Mr. Mock concurred.
Mr. Jefferson first discussed the Rates and Fees Notice and that it references increases up to 7%,
but that the increases will likely be closer to 4%. He also discussed the proposed sewer
connection increase which is a result of the pass-through cost from Metro Wastewater’s
increased fee.

Mr. Jefferson then discussed highlights from the proposed 2023 Budget. He also noted that
he’s received several requests from the public for copies of the proposed budget.

President McNeely then called for a **MOTION** to open the Public Hearing. Director Ennis
moved and Director Toczyłowski seconded. The **MOTION** passed unanimously.

President McNeely called for public comments. Mr. Lohmer again addressed the Board to
talk about his water bill, which he feels is high, and to ask about the rates for potable and non-
potable water. Mr. Lohmer also referenced the correspondence he sent to the District in January
and his attendance at the May Board meeting to follow-up. He stated that he hasn’t been
contacted yet and that he plans to also attend the next Board meeting in December.

Discussion ensued regarding the blended rate for potable and non-potable water. Mr.
Lohmer had additional questions about his water bill being high, and Mr. Scott indicated he will
discuss this further with Mr. Lohmer after the meeting.

Mr. Moreno apologized that no one has followed up yet with Mr. Lohmer regarding his
questions submitted earlier in the year.

President McNeely called for a **MOTION** to close the Public Hearing. Director Frew moved
and Director Ennis seconded. The **MOTION** passed unanimously.
Mr. Jefferson noted that Notices for both Public Hearings had been published or posted as required by law. He also briefly discussed some of the comments he’s received so far.

**ACTION ITEM 7 - Agreement with Muller Engineering Company, Inc. in the amount of $80,682.00 for Counter Drive Lift Station Engineering Services**

Mr. Moreno first stated that Jeff Coufal is no longer employed with the District. He then provided some background on the District’s purchase earlier this year of the home next to the lift station. He explained that this lift station serves several neighborhoods in the area and that the District wants to improve its response time in the event of lift station failure. Mr. Moreno also talked about other, more costly options that were available, but purchasing the adjacent property made the most economic sense. He further noted that the house will be sold after the parcel is configured so that the lift station improvements can be made.

Mr. Moreno then stated that staff recommends the Agreement with Muller Engineering.

President McNeely called for a **MOTION** to approve an Agreement with Muller Engineering Company, Inc. in the amount of $80,682.00 for Counter Drive Lift Station Engineering Services. Director Ennis moved and Director Frew seconded. The **MOTION** passed unanimously.

**ACTION ITEM 7 - Supplemental Contract Amendment #2 with Muller Engineering Company, Inc. in an amount not to exceed $109,869.00 for the Lift Station Assessment Project**

Mr. Moreno explained that Muller Engineering had assessed all the District’s lift stations in 2019, but that there have been deviations in the scope of work since then. He discussed some of the deviations, noting that the contract with Muller needs to be amended to reflect those changes in the scope of work.

Mr. Hamilton briefly discussed older legacy lift stations and how CDPHE wants to proceed. There was discussion on site visits with staff and how each site is unique enough to require its own plans for work.

President McNeely then called for a **MOTION** to approve a Supplemental Contract Amendment #2 with Muller Engineering Company, Inc. in an amount not to exceed $109,869.00 for the Lift Station Assessment Project. Director Ennis moved and Director Frew seconded. The **MOTION** passed unanimously.

**DISCUSSION ITEMS**

**DISCUSSION ITEM 1 – Communication Update**

Mr. Moreno talked about the video prepared at the request of Senator Hickenlooper following the Senator’s site visit to discuss PFAS.

Mr. Moreno also briefly discussed updating the District’s website.

Ms. Friess then addressed the Board. She talked about the District getting out into the community more, noting several recent and upcoming events.
Regarding the updated website, Ms. Friess discussed the proposed images that were received from the vendor and then provided to the Board. She noted some of the proposed enhancements, which include a translation button, larger search bar, larger icons, and easier access for customers in general. Ms. Friess then asked the Board for feedback and comments.

Discussion ensued regarding online payments and referencing other payment options on the website. Ms. Friess stated that a lot of info will be sent to customers at rollout. There was additional discussion about searching and cleaning up old information, the website being mobile friendly on phones and tablets, and the ability to maintain the new website and make updates in the future.

Ms. Friess then shared the video being provided to Senator Hickenlooper in the hopes it will be helpful to the District in obtaining funding for PFAS treatment. She talked about the need for a new water treatment plant to treat PFAS and that residents shouldn’t bear the cost.

**DISCUSSION ITEM 2 – Joint Meeting with the South Adams County FPD**

Mr. Moreno discussed the suggestion made by Director Ennis at the last Board meeting for the District to consider a joint meeting with the South Adams County Fire Protection District to discuss emergency preparedness. The Board members then provided comments on the suggested meeting, meeting topics, and shared goals. A meeting with the City was also suggested.

Additional discussion included the topic of evaluating natural gas as an alternative to diesel for the District’s emergency generators.

Mr. Moreno indicated that he would reach out to Chief Vincel and City Manager Jason Rogers regarding meetings to discuss emergency preparedness.

**EXECUTIVE SESSION**

Mr. Mock stated a motion for the Board to consider to enter into Executive Session under §24-6-402(4)(b & e), C.R.S., for the purpose of receiving legal advice on specific legal questions from the District’s legal counsel and determining positions that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators for possible condemnation of easement property related to Third Creek trunk infrastructure; under §24-6-402(4)(f), C.R.S., for personnel matters regarding the District Manager and General Counsel annual performance reviews; and any other matters that are properly authorized to be discussed in Executive Session.

Director Frew made a **MOTION** at 7:32 p.m. for the Board to enter into Executive Session, pursuant to the motion stated above by Mr. Mock. Director Ennis seconded. The **MOTION** passed unanimously, and the Board entered into Executive Session.

At 9:10 p.m., a **MOTION** was made by Director Frew for the Board to return to Regular Session. Director Ennis seconded and the **MOTION** passed unanimously. Mr. Mock then stated for the record that the portions of the Executive Session that were not recorded in his opinion constituted privileged attorney-client communications.
In conclusion, President McNeely thanked Mr. Scott for his work as the Water Systems Manager and his willingness to continue in his new half-time role with the District. Other Board members also thanked Mr. Scott and talked about his accomplishments including the Ennis Water Softening Facility.

Mr. Moreno then provided some history on Mr. Scott’s industry background and all the positive changes he brought to the District. He noted that Mr. Scott will continue to be instrumental in the PFAS treatment plant and possibly the 1,4-Dioxane treatment plant. Mr. Moreno also thanked all the Managers and General Counsel for pushing the District forward.

Mr. Scott then thanked the Board, the Management team, and all the highly qualified staff.

ADJOURNMENT

President McNeely called for a MOTION to adjourn at 9:20 p.m. Director Bullock moved and Director Frew seconded. The MOTION passed unanimously.

Respectfully submitted,

[Signature]

Acting Secretary

Attorney Attestation as to not recording portions of an Executive Session:

I, James M. Mock, hereby attest that the portion of the Executive Session discussion not recorded constituted privileged attorney-client communications.

[Signature]

James M. Mock

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